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11  
 12 UNITED STATES DISTRICT COURT  
 13 DISTRICT OF NEVADA

14 Alexander Suarez-Ramirez,  
 15 Petitioner,  
 16 v.  
 17 Bondi, *et al.*,  
 18 Respondents.

Case No. 2:25-cv-02369-MMD-EJY  
**Reply in Support of Petition for  
 Writ of Habeas Corpus**

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1 INTRODUCTION

2 Petitioner Alexander Suarez-Ramirez (Suarez) is a citizen of Cuba. He left  
3 Cuba after being persecuted and tortured by the Cuban government. He entered the  
4 United States by way of Mexico. [REDACTED]

5 [REDACTED] **Suarez has never been previously removed from the**  
6 **United States to Mexico.** Stating such in the Statement of Facts in the Petition  
7 was inaccurate and based on counsel's misunderstanding.<sup>1</sup> Suarez was later put  
8 into removal proceedings in the United States and was ordered removed on July 14,  
9 2025, but granted withholding of removal under the Immigration and Nationality  
10 Act that same day because of the substantial risk to his life in Cuba. It is believed  
11 no party reserved appeal and so the order became final at the time it was issued.  
12 Nevertheless, Respondents did not release Suarez. Instead, they began a series of  
13 attempts to unlawfully remove him to Mexico, a place he fears and where he has no  
14 lawful immigration status.

15 Suarez filed his petition for writ of habeas corpus pursuant to 28 U.S.C.  
16 §2241 seeking release from his unlawful detention, and to enjoin Respondents from  
17 removing him to a third country in violation of his rights under the Constitution  
18 and the Immigration and Nationality Act. Respondents claim that Suarez's  
19 detention and attempts to remove him to Mexico are lawful but, as many other  
20 courts have found in similar circumstances, they are wrong. Suarez must be  
21 released immediately, and the government must respect Suarez's rights with  
22 respect to any future attempts to remove him to Mexico or any other third country.

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25 <sup>1</sup> See ECF No. 2 at 5–6. Prior to appointment in this case, counsel was unable  
26 to schedule a meeting or phone call with Mr. Suarez due to ICE's policies and could  
27 only obtain information during short phone calls from Mr. Suarez at the Henderson  
Detention Center. Calls from the Henderson Detention Center are particularly  
difficult because there is frequently noise in the background and static on the line.

## FACTS AND PROCEDURAL HISTORY

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2 As a preliminary matter, much of the factual and even procedural  
3 information provided is on the basis of information and belief because written  
4 documentation is not in Suarez's possession and Respondents failed to provide  
5 evidence in their possession to support the majority of the allegations in their  
6 response. Notably, Respondents even cited to allegations in Suarez's petition  
7 instead of providing basic documentation such as the orders of removal and  
8 withholding; the motion to reopen; declarations or more minimally, names of the  
9 ICE agents who were involved in the illegal removal attempts to Mexico upon whose  
10 information Respondents rely in their response. Courts in this district routinely  
11 order Federal Respondents to provide the evidence upon which they rely in their  
12 pleadings. *See e.g. In Re: Ariegwe*, 2:25-cv-02478-ART-EJY (December 29, 2025)  
13 (ECF No. 8 at 3); *In Re: Biel*, 2:25-cv-02432-APG-BNW (December 11, 2025) (ECF  
14 No. 3 at 3); *In Re: Vijdani*, 2:25-cv-02438-JAD-NJK (December 12, 2025) (ECF No. 3  
15 at 3); *In Re: Rozi*, 2:25-cv-02557-GMN-MDC (December 23, 2025) (ECF No. 3 at 3);  
16 *In Re: Pueblas Rojas*, 2:25-cv-02548-RFB-BNW (December 23, 2025) (ECF No. 4).  
17 Even though they were not explicitly ordered to do so here, as the United States  
18 government and legal custodians of Suarez, Respondents should be expected to  
19 provide the relevant evidence in their possession including documents from the A  
20 file, the immigration court record, and declarations from ICE agents whose  
21 statements are relied upon. Relying on "information and belief"<sup>2</sup> is not appropriate  
22 for a government agency in possession of all the relevant information. *See Rojas-*  
23 *Lara v. The United States of America, et al.*, Case No. 2:25-cv-02544-RFB-EJY (D.  
24 Nev. Dec. 19, 2025) at ECF No. 15 ("[t]hese documents are uniquely in the  
25 possession of Respondents as the agencies and individuals responsible for  
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27 <sup>2</sup> ECF No. 16 at 3, 8.

1 Petitioner's detention. Therefore, Respondents have the responsibility to preserve  
2 these documents and make them readily available to Petitioner in a habeas  
3 proceeding, where Petitioner has an indisputable, statutorily guaranteed right to  
4 expedited resolution." *Id.*, citing *Yong v. I.N.S.*, 208 F.3d 1116, 1119-20 (9th Cir.  
5 2000)).

6 For Suarez's part, it is believed any documentary evidence he had was lost  
7 during the illegal attempts to remove him to Mexico, but he is able and willing to  
8 testify to any of the information offered herein on the basis of information and  
9 belief.

10 Suarez entered the United States on or around January 15, 2024.<sup>3</sup> He was  
11 then placed in removal proceedings.<sup>4</sup> He was detained by ICE on May 13, 2025,  
12 after he was arrested by the Las Vegas Metropolitan Police for misdemeanor DUI  
13 on May 11, 2025.<sup>5</sup> He has remained in detention since that date, now more than  
14 eight months ago. On July 15, 2025, Suarez was ordered removed to Cuba but  
15 granted withholding of removal under the Immigration and Nationality Act due to  
16 his history of persecution and torture by  and because it is  
17 likely his life would be in danger there. On information and belief, neither party  
18 reserved appeal, so the order became final that day.

19 About three weeks later on August 6, 2025, a motion to reopen the  
20 immigration judge's jurisdiction was granted.<sup>6</sup> Suarez was ordered removed again  
21 on August 22, 2025. On information and belief, the government is the party that  
22 filed the motion to reopen as Suarez was unaware that there had been any  
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25 <sup>3</sup> ECF No. 16-2 at 1.

26 <sup>4</sup> ECF No. 16-1 at 2.

27 <sup>5</sup> ECF No. 16-1 at 2.

<sup>6</sup>

1 reopening proceedings until undersigned counsel informed him. Suarez never had  
2 the opportunity to present a fear-based claim for relief from removal to Mexico in  
3 his proceedings. On August 31, 2025, ICE apparently served a Notice of Removal to  
4 Mexico document on Suarez.<sup>7</sup> On information and belief, Suarez has never met with  
5 or been asked to meet with any officials from the Mexican government, nor has he  
6 ever received any travel documents or documents of any kind from Mexico. Since  
7 August, ICE has attempted to remove Suarez to Mexico at least three times,  
8 including at least twice by force. Suarez has repeatedly informed ICE that he fears  
9 going to Mexico. He has never been provided with an opportunity to present a fear-  
10 based claim for relief from removal. On one occasion, when Suarez was forcefully  
11 taken by ICE to Arizona to be sent to Mexico, Suarez was so fearful of going to  
12 Mexico that he defecated on himself during the process in order to prevent his  
13 removal. Suarez also attempted suicide while detained in Florence, Arizona due to  
14 his fear of removal to Mexico.

15 Then either late at night on December 15 or in the early morning of  
16 December 16, 2025, ICE again took Suarez to Arizona in an attempt to send him to  
17 Mexico.<sup>8</sup> Suarez had no opportunity to speak with counsel due to the time and  
18 nature of ICE's actions. Counsel only found out from Suarez's family member.  
19 Suarez's counsel filed an emergency motion for temporary restraining that this  
20 Court granted to prevent his removal to Mexico or any other third country while  
21 this case is pending.<sup>9</sup> Suarez was brought back to Nevada and made available for a  
22 meeting with counsel on December 23, 2025. Counsel for Suarez, Assistant Federal  
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24 <sup>7</sup> ECF No. 16-3.

25 <sup>8</sup> Counsel was told by a family member that Suarez had been taken to  
26 Arizona but was not given any additional facts at that time. Counsel suspected the  
transfer was to facilitate removal to Mexico due to the history of this case.

27 <sup>9</sup> ECF Nos. 8, 13.

1 Public Defender Ashlyn Saenz-Ochoa met with Suarez and learned that he had  
2 been taken by force from Nevada. ICE agents grabbed him by the neck, and also  
3 shoved him, resulting in an injury to his leg. AFPD Saenz-Ochoa witnessed a half  
4 dollar-sized open wound above his right knee with dried blood around it.<sup>10</sup> Suarez  
5 also told AFPD Saenz-Ochoa that he had been pepper sprayed in the face at close  
6 range.<sup>11</sup> His eyes appeared red but it was hard to observe whether there was any  
7 remaining irritation from the pepper spray because of the low-light in the visitation  
8 room and the fact that Suarez was crying during the meeting.<sup>12</sup>

## 10 ARGUMENT

### 11 **I. Mr. Suarez-Ramirez must be released because his detention violates** 12 **his rights under the Due Process Clause of the United States** 13 **Constitution, the Immigration and Nationality Act, and the** 14 **Department of Homeland Security’s own regulations (Claims 1, 2,** 15 **and 3).**

16 Suarez is detained under the authority of 8 U.S.C. §1231(a) because he is  
17 subject to the July 15, 2025, final order of removal. In *Zadvydas v. Davis*, 533 U.S.  
18 678 (2001), the United States Supreme Court held that detaining a noncitizen  
19 subject to a final order of removal indefinitely under 8 U.S.C. § 1231(a) would run  
20 afoul of the Due Process Clause of the Fifth Amendment of the United States  
21 Constitution. *Id.* at 701. The *Zadvydas* court held that detention is presumed  
22 reasonable during the six months after an order of removal becomes final, but  
23 “[a]fter this 6-month period, once the [noncitizen] provides good reason to believe  
24 that there is no significant likelihood of removal in the reasonably foreseeable  
25 future, the Government must respond with evidence sufficient to rebut that

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26 <sup>10</sup> Ex. 7.

27 <sup>11</sup> Ex. 7.

<sup>12</sup> Ex. 7.

1 showing.” *Id.* In addition to violating the Due Process Clause, post-final order  
2 detention also exceeds the authority of 8 U.S.C. § 1231 where it is not reasonably  
3 necessary to secure removal. *See Medina v. Noem, et al., Respondents*, No. 25-CV-  
4 1768-ABA, 2025 WL 2306274, at \*6 (D. Md. Aug. 11, 2025) (citing *Zadvydus*, 533  
5 U.S. at 699) (“Whether detention is ‘reasonably necessary to secure removal is  
6 determinative of whether the detention is, or is not, pursuant to statutory  
7 authority...The basic federal habeas corpus statute grants the federal courts  
8 authority to answer that question.”).

9 Here, Suarez’s detention violates his due process rights and exceeds the  
10 authority of 8 U.S.C. § 1231. He has been detained for 181 days since his order of  
11 removal became final. Accordingly, his detention is no longer presumptively  
12 reasonable as a matter of law. More importantly though, Suarez was granted  
13 withholding of removal to Cuba, so he cannot be removed to Cuba. He has never  
14 had any lawful status in any other country, and the United States government does  
15 not appear to have begun the process of seeking travel documents for any third  
16 country to facilitate the lawful removal of Suarez elsewhere. Accordingly, Suarez’s  
17 removal is not reasonably foreseeable, and he must be released.

18 With regards to Respondents’ attempts to remove Suarez to Mexico, first,  
19 Respondents submit no evidence to support their allegations that Suarez can be  
20 removed to Mexico. They have not submitted travel documents, communications  
21 from Mexico, or even declarations from ICE agents. This is not adequate to meet  
22 their burden to show that removal is reasonably foreseeable. “Courts in this circuit  
23 have regularly refused to find respondents’ burden met where respondents have  
24 offered little more than generalizations regarding the likelihood that removal will  
25 occur.” *Barka v. Mattos, et al.*, No. 2:25-CV-01781-GMN-MDC, 2025 WL 3723998, at  
26 \*6 (D. Nev. Dec. 23, 2025).

1 Second, those attempts do not appear to be related to lawful removal nor do  
2 they comply with due process. *See below*, Section II. Evidence shows that Mexico is  
3 only taking non-Mexicans that wish to go to Mexico voluntarily.<sup>13</sup> While  
4 Respondents in this case did not submit any documentation related to the Mexico  
5 removal attempts, apart from the notice of removal, in other cases ICE has provided  
6 additional information showing that Mexico will only accept individuals from other  
7 countries who “willingly” will go to Mexico.<sup>14</sup> Suarez has included the declaration  
8 from one such case as an exhibit. In that case, when the petitioner declined to  
9 willingly go to Mexico, ICE determined it would seek removal to a different third  
10 country. Similarly, in *Pena-Gil v. Lyons*, a recent case from the District of Colorado,  
11 the court noted that ICE officers “have attempted to persuade [a Cuban] petitioner  
12 to voluntarily go to Mexico” and that “ICE has transferred petitioner to several  
13 locations during its efforts to convince petitioner to voluntarily go to Mexico, but  
14 each time returned him to the Denver Contract Detention Facility.” *Pena-Gil v.*  
15 *Lyons*, No. 25-CV-03268-PAB-NRN, 2025 WL 3268333, at \*1 (D. Colo. Nov. 24,  
16 2025).

17 In light of this information, the “removals” to Mexico that ICE has attempted  
18 for Suarez are not so much lawful removal attempts as violent attempts to convince  
19 Suarez to voluntarily go to Mexico. This is clear because Suarez has never been  
20 asked to meet with representatives of the Mexican government nor has he been  
21 asked to solicit travel documents from Mexico. Respondents have not alleged that  
22 ICE has tried to obtain travel documents from Mexico, let alone that they have been  
23 received. Their statements amount to little more than allegations that they have  
24 attempted to force Suarez over the border without any documents and against his  
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26 <sup>13</sup> Ex. 5.

27 <sup>14</sup> Ex. 5.

1 will. To be clear: Suarez will not voluntarily go to Mexico. He was kidnapped and  
2 assaulted there, and he fears returning.

3 It's true that a noncitizen subject to a final order of removal has the  
4 obligation to assist in efforts to remove him (*see* 8 U.S.C. § 1253(a)), but a noncitizen  
5 does not have an obligation to voluntarily go to another country through an  
6 extralegal process, especially when doing so would put his life in danger. To the  
7 extent Respondents want to undergo a process to lawfully remove Suarez to Mexico,  
8 he is entitled to due process and an opportunity to seek fear-based relief from  
9 removal. *See* Claim 4. Because Respondents have not even begun a lawful process to  
10 remove Suarez to Mexico, removal is not reasonably foreseeable.

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12 **II. The Respondents' Third Country Removal Policy is unlawful and**  
13 **does not provide a lawful basis to detain Mr. Suarez-Ramirez or to**  
14 **find that his removal is reasonably foreseeable (Claims 4 and 5).**

15 Respondents' policy to remove noncitizens to a third country without an  
16 opportunity to seek fear-based protection constitutes arbitrary and capricious  
17 agency action in violation of the Administrative Procedure Act. It also violates his  
18 due process rights because Suarez has a right to meaningful notice and opportunity  
19 to present a fear-based claim to an IJ. Courts in this district have granted relief on  
20 this basis. *See Gomez v. Mattos*, No. 2:25-CV-00975-GMN-BNW, 2025 WL 3101994,  
at \*6 (D. Nev. Nov. 6, 2025); *Barka*, 2025 WL 3723998, at \*7.

21 In their response, Respondents mainly argue that relief should not be  
22 granted on account of the class action *D.V.D. v. Department of Homeland Security*,  
23 Civ. A. No. 25-10676 (D. Mass.) Respondents argue that this Court should not grant  
24 relief that could eventually conflict with *D.V.D.*, and that this Court should avoid  
25 providing relief that is likely to be rejected and overturned by the Supreme Court  
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1 given that the Supreme Court stayed the injunction in *D.V.D.*<sup>15</sup> Neither of  
2 Respondents' arguments are persuasive, and they have been rejected by other  
3 courts in this Circuit.

4 For example, a court in the Western District of Washington recently rejected  
5 these arguments. It found that the class action did not prevent a petitioner from  
6 prevailing on this claim because the petitioner's claim was not identical to the claim  
7 raised in *D.V.D.* considering that the petitioner sought individual habeas relief as  
8 opposed to "systemic relief." *Arenado-Borges v. Bondi*, No. 2:25-CV-02193-JNW,  
9 2025 WL 3687518, at \*6 (W.D. Wash. Dec. 19, 2025). The court also noted that "if  
10 the Government's argument were accepted, [petitioner] would be unable to address  
11 his due process claims until the relevant class action resolved— potentially years  
12 from now." *Id.* That court also rejected the notion that the Supreme Court's stay of  
13 the injunction in *D.V.D.* weighs against granting relief on the merits, finding that  
14 "numerous courts have rejected the Government's argument, concluding that the  
15 Supreme Court's unexplained emergency-docket decision in *D.V.D.* warrants no  
16 precedential weight." *Id.* at 5. Indeed, "[i]n *D.V.D.*, when the Government applied  
17 for an emergency stay in the Supreme Court, it made numerous arguments—  
18 including the argument that the district court lacked the authority to enter a  
19 nationwide injunction preventing third-country removal. The Supreme Court did  
20 not clarify which argument or arguments it found persuasive in granting the  
21 requested stay." *Id.* Because the relevant facts are similar in this case, this Court  
22 should adopt the reasoning of *Arenado-Borges v. Bondi* and other courts that have  
23 rejected these arguments and find that *D.V.D.* does not preclude relief on this claim.  
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27 <sup>15</sup> ECF No. 16 at 11–12.

1 Respondents also argue that they are committed to following the outlined  
2 procedure for third country removal, but they are not even doing that.<sup>16</sup>  
3 Respondents claim that DHS has no documents noting that Suarez has expressed a  
4 fear of removal to Mexico even though he has repeatedly expressed such a fear.<sup>17</sup>  
5 The current procedure is unlawful, but even as it stands, Respondents are not  
6 following it. Accordingly, their attempts to remove Suarez to Mexico are arbitrary  
7 and capricious, and Respondents must comply with due process and the APA with  
8 regards to any future attempts at third country removal.

9 Finally, because Respondents' third country removal policy is unlawful, and  
10 their attempts to remove Suarez to Mexico are arbitrary and capricious, detaining  
11 Suarez solely to continue attempts to affect unlawful and arbitrary removal to a  
12 third country is also a violation of his due process rights. Recently, on January 9,  
13 2025, another court in this District granted relief on a similar basis in another case  
14 concerning a Cuban citizen that ICE had unlawfully attempted to remove to Mexico.  
15 In that case the court found that the petitioner's due process rights were violated by  
16 his continued detention for the purpose of third country removal that did not comply  
17 with due process and ordered the petitioner's release. *See Perez v. Bondi, et al.*, Case  
18 No. 2:25-cv-02390-CDS-BNW at ECF No. 18.<sup>18</sup> The same reasoning applies here.  
19 This Court should order Suarez's release because his current detention violates his  
20 due process rights.

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23 <sup>16</sup> ECF No. 16 at 12–13.

24 <sup>17</sup> *See* ECF No. 16 at 2. Respondents specifically point out that Suarez did not  
25 express a fear of removal to Mexico when he was taken into ICE detention in May of  
26 2025. This is not surprising given that Suarez had no idea that removal to Mexico  
was a possibility at that time. Suarez reasonably only expressed a fear of removal to  
Cuba at that time.

27 <sup>18</sup> Suarez cites to the minutes of proceedings in which relief was granted  
because a written decision has not yet been issued.

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**CONCLUSION**

This Court should grant this petition and order Suarez's immediate release from ICE custody on reasonable terms of supervision and enjoin Respondents from removing him to a third country without an opportunity to seek fear-based relief from removal.

Dated January 12, 2026

Respectfully submitted,

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*/s/ Ashlyn Saenz-Ochoa*

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